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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,793	10/15/2001	Christopher P. Ausschnitt	FIS920010192	3734

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EXAMINER

DAVIS, WILLIE L

ART UNIT	PAPER NUMBER
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2877

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/977,793

Applicant(s)

AUSSCHNITT ET AL.

Examiner

Willie Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8, 9 and 14-16 is/are rejected.
- 7) ☒ Claim(s) 4-7, 10-13 and 17-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

The corrected or substitute drawings were received on May 13, 2002. These drawings are approved.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3,8,9 and 14-16 are rejected under 35 U.S.C. 102(e) as being unpatentable over Credendino('595).

### ***Calims 1,8 and 14,***

Credendino('595) discloses a first layer of the integrated circuit having at least one circuit area including a first active circuit feature and a kerf area adjacent to the circuit area substantially free of active features, the first layer kerf area including a first measurement feature corresponding substantially to the first layer active circuit feature and separated from the first layer active circuit feature by a distance(see Fig. 1A).

Credendina('595) discloses a second layer of the integrated circuit having at least one circuit area including a second active circuit feature and a kerf area adjacent to the circuit area substantially free of active circuit features, the circuit and kerf areas of the first and second layers being substantially superimposed, the second layer kerf area including a second measurement feature corresponding substantially to the second layer active circuit feature and separated therefrom by a distance, the distance of separation between the separated second layer active circuit feature and the second layer kerf measurement feature in the direction that the overlay error is to be determined being the same as the distance of separation between the separated first layer active circuit feature and the first layer kerf measurement feature in such direction, the second layer kerf measurement feature being displaced from the first layer kerf measurement feature compared to the first and second active circuit features in a direction perpendicular to the direction that the overlay error is to be determined(see column 2, lines 55-67, column 3, lines 1-20)

Credendino('595) discloses a common point of reference of each of the first and second layer kerf measurement features(see Abstract).

Credendino('595) discloses measuring distance of separation in the direction of overlay error between the common points of reference of each of the first and second layer kerf measurement features to determine overlay error of the first and second active circuit features(see Abstract).

Credendino('595) discloses common points of reference of each of the first and second layer kerf measurement features being determinable to permit measurement of any separation between the common points of reference of each of the first and second layer kerf measurement features to determine overlay error(see Abstract).

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***Claims 2 and 15,***

Credendino('595) discloses first and second active circuit features corresponding to the first and second layer kerf measurement features and contacting each other(see column 1, lines 12-22).

***Claims 3,9 and 16,***

Credendino('595) discloses first and second layers of the integrated circuit each having a plurality of circuit areas separated of kerf areas(see Figure 1A).

***Allowable Subject Matter***

Claims 4-7,10-13 and 17-20 are objected to as being dependent upon a rejected claim base, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Willie Davis whose telephone number is 703-305-5169. The examiner can normally be reached on 9:30am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on 703-308-4881. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-0956 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-7722.

*Willie Davis*

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May 23, 2003

*[Signature]*  
**Michael P. Stafira**  
Primary Patent Examiner  
Technology Center 2800